D.B.CIVIL SPECIAL APPEAL NO. 353/2007
Radhey Shyam Sharma v. State of Rajasthan

Date of order : 23.04.2007.

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Rajendra Prasad for the appellant

This special appeal arises from a writ petition which the appellant had filed seeking orders for rejection of the final report in a criminal case, and for direction upon the State Government to entrust the investigation to the Central Bureau of Investigation (CBI).

The matter pertaining to rejection/acceptance of the final report may be challenged under section 482 Cr.P.C. This is the view taken by the learned Single Judge while rejecting the writ petition. Even if the plea of the counsel that appellant could seek remedy under Article 226 of the Constitution of India is accepted, it would mean that the writ petition, though registered as civil writ petition, should be treated as criminal writ petition under Article 226 of the Constitution of India. The writ petition having been rejected and we do not think, this special appeal is maintainable.

On facts of the case, further, we do not think it is a fit case for entrusting the investigation to CBI.

This appeal is accordingly dismissed.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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